

Senate Study Bill 3103

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE
DIVISION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act making nonsubstantive corrections to certain provisions
2 relating to insurance and making repeals.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5432XD 82
5 av/nh/24

PAG LIN

1 1 Section 1. Section 507B.4, subsection 2, paragraph c, Code
1 2 Supplement 2007, is amended to read as follows:
1 3 c. STATEMENT OF CAPITAL AND SURPLUS. In the case of a
1 4 foreign company transacting the business of casualty insurance
1 5 in the state, or an officer, producer, or representative of
1 6 such a company, issuing or publishing an advertisement, public
1 7 announcement, sign, circular, or card that purports to
1 8 disclose the company's financial standing and fails to
1 9 exhibit: the capital actually paid in cash, and the amount of
1 10 net surplus of assets over all the company's liabilities
1 11 actually held and available for the payment of losses by fire
1 12 and for the protection of holders of fire policies; and the
1 13 amount of net surplus of assets over all liabilities in the
1 14 United States actually available for the payment of losses by
1 15 fire and held in the United States for the protection of
1 16 holders of fire policies in the United States, including in
1 17 such liabilities the fund reserved for reinsurance of
1 18 outstanding risks. The amounts stated for capital and net
1 19 surplus shall correspond with the latest verified statement
1 20 made by the company or association to the commissioner of
1 21 insurance. ~~Such a company shall not write, place, or cause to~~
~~1 22 be written or placed, a policy or contract for insurance on~~
~~1 23 property situated or located in this state except through a~~
~~1 24 licensed producer authorized to do business in this state.~~

1 25 Sec. 2. Section 510.21, unnumbered paragraph 2, Code
1 26 Supplement 2007, is amended to read as follows:
1 27 An application for registration shall be accompanied by a
1 28 filing fee of one hundred dollars. After notice and hearing,
1 29 the commissioner may impose any or all of the sanctions set
1 30 out in section 507B.7, upon finding that either the
1 31 third-party administrator violated any of the requirements of
1 32 ~~section 515.145 and sections 510.1A 510.12~~ through 510.20 and
1 33 this section, or the third-party administrator is not
1 34 competent, trustworthy, financially responsible, or of good
1 35 personal and business reputation.

2 1 Sec. 3. Section 515.1, Code 2007, is amended to read as
2 2 follows:
2 3 515.1 APPLICABILITY.
2 4 Corporations formed for the purpose of insurance, other
2 5 than life insurance, shall be governed by the provisions of
2 6 chapter 490, chapter 491, or chapter 504, except as modified
2 7 by the provisions of this chapter. The provisions of this
~~2 8 chapter relative to insurance companies shall apply to all~~
~~2 9 such companies, partnerships, associations, or individuals,~~
~~2 10 whether incorporated or not.~~

2 11 Sec. 4. NEW SECTION. 515.11A TRANSFER OF STOCK.
2 12 Transfers of stock made by any stockholder or the
2 13 stockholder's legal representative shall be subject to the
2 14 provisions of chapters 491 and 492 relative to transfer of
2 15 shares, and to such restrictions as the directors shall
2 16 establish in their bylaws, except as hereinafter provided.

2 17 Sec. 5. Section 515.73, Code Supplement 2007, is amended
2 18 to read as follows:

2 19 515.73 ADDITIONAL STATEMENTS == IMPAIRED CAPITAL.
2 20 ~~Such Any~~ company ~~desiring to transact the business of~~
2 21 ~~insurance under this chapter~~ shall also file with the
2 22 commissioner a certified copy of its charter or deed of
2 23 settlement, together with a statement under oath of the
2 24 president or vice president or other chief officer and the
2 25 secretary of the company for which they may act, stating the
2 26 name of the company, the place where located, the amount of
2 27 its capital, with a detailed statement of the facts and items
2 28 required from companies organized under the laws of this
2 29 state, and a copy of the last annual report, if any, made
2 30 under any law of the state by which such company was
2 31 incorporated; and no agent shall be allowed to transact
2 32 business for any company whose capital is impaired by
2 33 liabilities as specified in this chapter to the extent of
2 34 twenty percent thereof, while such deficiency shall continue.

2 35 Sec. 6. Section 515.120, Code Supplement 2007, is amended
3 1 to read as follows:

3 2 515.120 BUSINESS WITH NONADMITTED INSURERS.

3 3 This chapter does not prevent a licensed resident or
3 4 nonresident ~~agent producer~~ of this state, qualified to write
3 5 excess and surplus lines insurance, from procuring insurance
3 6 in certain nonadmitted insurers if such insurance is
3 7 restricted to the type and kind of insurance authorized by
3 8 this chapter, excluding insurance authorized under section
3 9 515.48, subsection 5, paragraph "a", and the ~~agent producer~~
3 10 makes oath to the commissioner of insurance in the form
3 11 prescribed by the commissioner that the ~~agent producer~~ has
3 12 made diligent effort to place the insurance in authorized
3 13 insurers and has either exhausted the capacity of all
3 14 authorized insurers or has been unable to obtain the desired
3 15 insurance in insurers licensed to transact business in this
3 16 state. The procuring of a contract of insurance in a
3 17 nonadmitted insurer makes the insurer liable for, and the
3 18 ~~agent producer~~ shall pay, the taxes on the premiums as if the
3 19 insurer were duly authorized to transact business in the
3 20 state. A sworn report of all business transacted by ~~agents~~
3 21 ~~producers~~ of this state in nonadmitted insurers shall be made
3 22 to the commissioner of insurance on or before March 1 of each
3 23 year for the preceding calendar year, on the form required by
3 24 the commissioner of insurance. The report shall be
3 25 accompanied by a remittance to cover the taxes on the
3 26 premiums. ~~An agent A producer~~ who makes the oath, pays the
3 27 taxes on the premiums, and files the report has not written
3 28 such contracts of insurance unlawfully, and is not personally
3 29 liable for the contracts.

3 30 Sec. 7. Section 515.121, Code Supplement 2007, is amended
3 31 to read as follows:

3 32 515.121 ADMINISTRATIVE PENALTY.

3 33 1. An excess and surplus lines insurance ~~agent that~~
3 34 ~~producer who~~ fails to timely file the report required in
3 35 section 515.120 is in violation of this section and shall pay
4 1 an administrative penalty of five hundred dollars to the
4 2 treasurer of state for deposit in the general fund of the
4 3 state as provided in section 505.7.

4 4 2. The commissioner shall refuse to renew the license of
4 5 ~~an agent that a producer who~~ fails to comply with the
4 6 provisions of section 515.120 and this section and the ~~agent's~~
4 7 ~~producer's~~ right to transact new business in this state shall
4 8 immediately cease until the ~~agent producer~~ has so complied.

4 9 3. The commissioner may give notice to ~~an agent a producer~~
4 10 that the ~~agent producer~~ has not timely filed the report
4 11 required under section 515.120 and is in violation of this
4 12 section. If the ~~agent producer~~ fails to file the required
4 13 report within ten days of the date of the notice, the ~~agent~~
4 14 ~~producer~~ shall pay an additional administrative penalty of one
4 15 hundred dollars for each day that the failure continues to the
4 16 treasurer of state for deposit in the general fund of the
4 17 state as provided in section 505.7.

4 18 Sec. 8. Section 515.122, subsection 1, Code Supplement
4 19 2007, is amended to read as follows:

4 20 1. An insurance producer shall not knowingly place
4 21 insurance, either directly or through an intermediary broker,
4 22 ~~in with~~ insurers who are insolvent or unsound financially; and
4 23 shall not place or renew insurance with nonadmitted insurers
4 24 found by the commissioner of insurance to have failed or
4 25 refused to furnish, in the manner provided in subsection 2,
4 26 information reasonably showing the ability or willingness of
4 27 the insurers to satisfy obligations undertaken with respect to
4 28 insurance issued by them.

4 29 Sec. 9. Section 515.125, Code Supplement 2007, is amended

4 30 to read as follows:

4 31 515.125 FORFEITURE OF POLICIES == NOTICE.

4 32 1. ~~A policy or contract of insurance, unless~~ Unless

4 33 otherwise provided in section 515.127 or 515.128, a policy or

4 34 contract of insurance provided for in this chapter shall not

4 35 be forfeited, suspended, or canceled except by notice to the

5 1 insured as provided in this chapter. A notice of cancellation

5 2 is not effective unless mailed or delivered by the insurer to

5 3 the named insured at least thirty days before the effective

5 4 date of cancellation, or, where cancellation is for nonpayment

5 5 of a premium, assessment, or installment provided for in the

5 6 policy, or in a note or contract for the payment thereof, at

5 7 least ten days prior to the date of cancellation. The notice

5 8 may be made in person, or by sending by mail a letter

5 9 addressed to the insured at the insured's address as given in

5 10 or upon the policy, anything in the policy, application, or a

5 11 separate agreement to the contrary notwithstanding.

5 12 2. An insurer shall not fail to renew a policy except by

5 13 notice to the insured as provided in this chapter. A notice

5 14 of intention not to renew is not effective unless mailed or

5 15 delivered by the insurer to the named insured at least thirty

5 16 days prior to the expiration date of the policy. A notice of

5 17 intention not to renew is not required if the insured is

5 18 transferred from an insurer to an affiliate for future

5 19 coverage as a result of a merger, acquisition, or company

5 20 restructuring and if the transfer results in the same or

5 21 broader coverage.

5 22 3. If the reason does not accompany the notice of

5 23 cancellation or nonrenewal, the insurer shall, upon receipt of

5 24 a timely request by the named insured, state in writing the

5 25 reason for cancellation or nonrenewal.

5 26 Sec. 10. Section 515.129, subsection 3, unnumbered

5 27 paragraph 1, Code Supplement 2007, is amended to read as

5 28 follows:

5 29 An umbrella or excess insurance policy which has been

5 30 renewed or which has been in effect for sixty or more days

5 31 shall not be canceled by the insurer, except as provided in

5 32 section 515.127, subsections 2 and 3, ~~except by unless~~ notice

5 33 has been mailed or delivered to the insured as required by

5 34 this section or unless at least one of the following

5 35 conditions occurs:

6 1 Sec. 11. Section 515.130, Code Supplement 2007, is amended

6 2 to read as follows:

6 3 515.130 SHORT RATES.

6 4 The commissioner of insurance shall prepare and promulgate

6 5 tables of the short rates provided for in ~~sections 515.125 and~~

6 6 ~~515.126~~ section 515.132, for the various kinds and classes of

6 7 insurance governed by the provisions of this chapter, which,

6 8 when promulgated, shall be for the guidance of all companies

6 9 covered in this chapter and shall be the rate to be given in

6 10 any notice therein required. No company shall discriminate

6 11 unfairly between like assureds in the rate or rates so

6 12 provided.

6 13 Sec. 12. Section 515.138, Code Supplement 2007, is amended

6 14 to read as follows:

6 15 515.138 NOTICE OF LOSS OF PERSONAL PROPERTY BY HAIL.

6 16 In case of loss or damage to growing crops by hail, notice

6 17 of such loss or damage must be given to the company by the

6 18 insured by mailing a certified mail letter within ten days

6 19 from the time such loss or damage occurs.

6 20 Sec. 13. Section 515.141, subsection 1, Code Supplement

6 21 2007, is amended to read as follows:

6 22 1. The commissioner of insurance is authorized to issue a

6 23 subpoena for examination under oath, to any officer, agent, or

6 24 employee of any company suspected of violating any of the

6 25 provisions of section 515.140.

6 26 Sec. 14. Section 515.142, Code Supplement 2007, is amended

6 27 to read as follows:

6 28 515.142 TRANSFERS PENDING INVESTIGATION.

6 29 Any transfer of the stock of any company organized under

6 30 this chapter, made pending any investigation ~~above required~~,

6 31 shall not release the party making the transfer from any

6 32 liability for losses which may have accrued previous to such

6 33 transfer.

6 34 Sec. 15. Section 515.145, Code Supplement 2007, is amended

6 35 to read as follows:

7 1 515.145 REVOCATION OF AUTHORITY.

7 2 If upon any examination, ~~and that of or upon information~~

7 3 ~~obtained from any other~~ witness produced ~~and or~~ examined, the

7 4 commissioner determines that a company has violated section

7 5 515.140, or if any officer, agent, or employee fails to appear

7 6 or submit to examination after receiving a subpoena, the
7 7 commissioner shall promptly issue an order revoking the
7 8 authority of the company to transact business within this
7 9 state, and the company shall not be permitted to do the
7 10 business of insurance in this state for one year.

7 11 Sec. 16. Section 515.146, Code Supplement 2007, is amended
7 12 to read as follows:

7 13 515.146 CERTIFICATE REFUSED == ADMINISTRATIVE PENALTY.

7 14 The commissioner of insurance shall withhold the
7 15 commissioner's certificate or permission of authority to do
7 16 business from a company neglecting or failing to comply with
7 17 this chapter. In addition, a company organized or authorized
7 18 under this chapter which fails to file the annual statement
7 19 referred to in section 515.63 in the time required shall pay
7 20 and forfeit an administrative penalty in an amount of five
7 21 hundred dollars to be collected in the name of the state for
7 22 deposit in the general fund of the state as provided in
7 23 section 505.7. The company's right to transact further new
7 24 business in this state shall immediately cease until the
7 25 company has fully complied with this chapter. The
7 26 commissioner may give notice to a company which has failed to
7 27 file within the time required that the company is in violation
7 28 of this section and, if the company fails to file the evidence
7 29 of investment and statement within ten days of the date of the
7 30 notice, the company shall forfeit and pay the additional sum
7 31 of one hundred dollars for each day the failure continues, to
7 32 be paid to the treasurer of state for deposit in the general
7 33 fund of the state as provided in section 505.7.

7 34 Sec. 17. Section 515.153, Code Supplement 2007, is amended
7 35 to read as follows:

8 1 515.153 INCRIMINATION.

8 2 The statements and declarations made or testimony given by
8 3 any ~~such~~ officer, agent, or employee in the investigation
8 4 before the commissioner of insurance, or upon the hearing on
8 5 the petition for judicial review, as provided in sections
8 6 515.141, 515.145, and 515.152, shall not be used against the
8 7 person making the same in any criminal prosecution against the
8 8 person.

8 9 Sec. 18. Sections 515.62 and 515.64, Code 2007, are
8 10 repealed.

8 11 Sec. 19. Section 515.107, Code Supplement 2007, is
8 12 repealed.

8 13 EXPLANATION

8 14 This bill makes nonsubstantive corrections to Code chapter
8 15 507B dealing with insurance trade practices and to Code
8 16 chapter 515 relating to insurance other than life insurance.

8 17 Code section 507B.4(2)(c) is amended to delete language
8 18 that does not relate to the topic of the paragraph and which
8 19 duplicates requirements already contained in Code chapter
8 20 522B, regulating insurance producers.

8 21 Code section 510.21 is amended to correct incorrect
8 22 internal references.

8 23 Code section 515.1 is amended to include the language
8 24 presently contained in Code section 515.107, and Code section
8 25 515.107 is repealed. The reorganization of Code chapter 515
8 26 in 2007 made the placement of this language more appropriate
8 27 at the beginning of the Code chapter.

8 28 New Code section 515.11A recodifies the language of Code
8 29 section 515.62 dealing with the transfer of stock in the area
8 30 of the Code chapter that relates to stock companies. The
8 31 reorganization of Code chapter 515 in 2007 made the placement
8 32 of this language more appropriate in a new location. Code
8 33 section 515.62 is repealed.

8 34 Code section 515.64 is repealed because the language
8 35 contains an archaic reference to an outdated business model.

9 1 Code section 515.73 is amended to delete the words "such
9 2 company" which referred to language in a previous Code section
9 3 that was transferred when Code chapter 515 was reorganized in
9 4 2007 and now refers to "any company" transacting insurance
9 5 business under the Code chapter.

9 6 Code sections 515.120 and 515.121 are amended to change
9 7 references from insurance "agent" to "producer" to be
9 8 consistent with changes in terminology that were previously
9 9 made in Code chapter 522B and in other sections of the Code.

9 10 Code section 515.122(1) is amended by changing a word in
9 11 one clause so that the language is consistent with that in the
9 12 succeeding clause.

9 13 Code section 515.125 is amended to clarify the meaning of
9 14 the language in subsection 1 and to number a previously
9 15 unnumbered paragraph to make a new subsection 3.

9 16 Code section 515.129(3) is amended to make the language

9 17 easier to understand.
9 18 Code section 515.130 is amended to correct an internal
9 19 reference.
9 20 Code section 515.138 is amended by expanding the word
9 21 "loss" to "loss or damage" to make the language consistent
9 22 throughout the Code section.
9 23 Code section 515.141(1) is amended by adding a missing
9 24 preposition to make the language consistent with that
9 25 contained in subsection 2 of the Code section.
9 26 Code section 515.142 is amended by deleting the words
9 27 "above required" so that the Code section applies to the
9 28 entire Code chapter. The transfer of language within Code
9 29 chapter 515 in 2007 made this language inaccurate.
9 30 Code sections 515.145 and 515.146 are amended to make the
9 31 language more understandable.
9 32 Code section 515.153 is amended to make the provision
9 33 applicable to the whole Code chapter. The transfer of
9 34 sections within Code chapter 515 in 2007 made the language
9 35 inaccurate in referring to language which no longer precedes
10 1 it.
10 2 LSB 5432XD 82
10 3 av/nh/24